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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/717,151	11/22/2000	Yury Bakshi	1999-0486	1906

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EXAMINER

MOSLEHI, FARHOOD

ART UNIT	PAPER NUMBER
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2154

DATE MAILED: 02/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/717,151

Applicant(s)

BAKSHI ET AL.

Examiner

Farhood Moslehi

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-20 are presented for examination.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 7, 11, 12, 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Krishnan (5,799,002).

As per claim 1, Krishnan teaches a method for throttling incoming requests to a server having a buffer for storing incoming calls request to being processed by the server, the method comprising:

Receiving incoming requests (e.g. col. 2, lines 49-52);

Determining whether the server is overloaded (e.g. col. 3, lines 1-9);

If the server is overloaded then storing requests in the buffer only if a number of incoming requests currently stored in the buffer is less than an acceptance limit (e.g. col. 5, lines 50-65); and if the server is not overloaded, then storing the incoming requests in the buffer (e.g. col. 6, lines 9-12).

4. As per claim 11, it is rejected for similar reasons as stated above.

5. As per claim 2, Krishnan teaches the method, wherein determining whether the server is overloaded is based on at least an incoming request rate and a processing rate of the server (e.g. col. 3, lines 1-15. The threshold represents an overloaded condition).
6. As per claim 12, it is rejected for similar reasons as stated above.
7. As per claim 7, Krishnan teaches the method wherein the acceptance limit is 25% of the capacity of the buffer (e.g. col. 3, lines 1-15. Various thresholds can be set by the system administrator to any value of the queue size. The system administrator can set the first threshold of the throttling process to 25% of the ATQ size).
8. As per claim 17, it is rejected for similar reasons as stated above.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 3-5, 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krishnan in view of Cherkasova et al. (6,154,769) (hereinafter Cherkasova)
11. As per claim 3, Krishnan does not specifically discuss the method, wherein whether the server is overloaded if the incoming request rate exceeds the processing rate of the server. Cherkasova teaches the method, wherein whether the server is overloaded if the incoming request rate exceeds the processing rate of the server (e.g. col. 2, lines 55-59). It would have been

Art Unit: 2154

obvious to one of ordinary skill in the art at the time the invention was made to combine Krishnan and Cherkasova. The motivation would have been to queue unprocessed requests.

12. As per claim 4, it is rejected for similar reasons as stated above.

13. As per claim 13, it is rejected for similar reasons as stated above.

14. As per claim 14, it is rejected for similar reasons as stated above.

15. As per claim 5, Krishnan does not specifically teach the method, wherein the predetermined amount of time is set based on a desired delay time of the buffer. Cherkasova teaches the method, wherein the predetermined amount of time is set based on a desired delay time of the buffer (e.g. col. 3, lines 1-6). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Krishnan and Cherkasova. The motivation would have been to monitor the queue to determine the execution of a particular request.

16. As per claim 15, it is rejected for similar reasons as stated above.

17. Claims 6,8-10,16, 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krishnan in view of McDaniel (6,510,214)

18. As per claim 6, Krishnan does not specifically discuss the method, wherein the acceptance limit is less than 100% of a capacity of the buffer while the server is overloaded. McDaniel teaches the method, wherein the acceptance limit is less than 100% of a capacity of the buffer while the server is overloaded (e.g. Figure 2. The queue depth is less than 100% during overload conditions). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Krishnan and McDaniel. The motivation would have been not to throttle the system based on queue length.

19. As per claim 16, it is rejected for similar reasons as stated above.

20. As per claim 8, Krishnan does not specifically discuss the method wherein the incoming requests are telephone calls. McDaniel teaches the method wherein the incoming requests are telephone calls (e.g. col. 1, lines 30-40). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Krishnan and McDaniel. The motivation would have been to throttle the bandwidth of a telecommunications system.

21. As per claim 9, it is rejected for similar reasons as stated above.

22. As per claim 18, it is rejected for similar reasons as stated above.

23. As per claim 19, it is rejected for similar reasons as stated above.

24. As per claim 10, Krishnan does not specifically discuss the method, wherein the acceptance limit is determined based on a desired delay time of the buffer. McDaniel shows the method, wherein the acceptance limit is determined based on a desired delay time of the buffer (e.g. Figure 2. The queue depth controls the overload or acceptance limit of the system). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Krishnan and McDaniel. The motivation would have been for the queue to control the processing of the data.

25. As per claim 20, it is rejected for similar reasons as stated above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Farhood Moslehi whose telephone number is 703-305-8646. The examiner can normally be reached on M-F 8:30-4:30.

Art Unit: 2154

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 703-305-8498. The fax phone number for the organization where this application or proceeding is assigned is 703-746-7239.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5484.

fm



**JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
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